

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**UNITED STATES *ex rel.*
ACADEMY HEALTH CENTER, INC. f/k/a
ADVENTIST HEALTH CENTER, INC.,**

Plaintiffs,

vs.

**HYPERION FOUNDATION, INC. d/b/a
OXFORD HEALTH &
REHABILITATION CENTER;
ALTACARE CORPORATION;
HP/ANCILLARIES, INC.; LONG TERM
CARE SERVICES, INC.; SENTRY
HEALTHCARE ACQUIRORS, INC.;
HP/MANAGEMENT GROUP, INC.;
HARRY McD. CLARK; JULIE
MITTLEIDER; DOUGLAS K.
MITTLEIDER; *et al.*,**

Defendants.

**Civil Action No.:
3:10-cv-00552-CWR-LRA**

JOINT STIPULATION OF DISMISSAL PURSUANT TO SETTLEMENT

COME NOW the Plaintiffs and Defendants (“Parties”), pursuant to a Settlement Agreement executed by the parties with the Effective Date of November 15, 2017, incorporated herein by reference, and Fed. R. Civ. P., Rule 41(a), and jointly state and stipulate as follows:

1. On September 30, 2009, Relator Academy Health Center, Inc. (“Relator”) filed an action pursuant to the *qui tam* provisions of the False Claims Act (“FCA”), 31 U.S.C. § 3730(b), captioned *United States ex rel. Academy Health Center, Inc. f/k/a Adventist Health Center, Inc. v. Hyperion Foundation, Inc. d/b/a Oxford Health and Rehabilitation Center; AltaCare Corporation; HP/Ancillaries, Inc.; Long Term Care Services, Inc.; HP/Management*

Group, Inc.; Harry McD. Clark; Julie Mittleider; Douglas K. Mittleider, et al., Adversary Action No. 09-69500 (“*qui tam* action”). On October 4, 2010, Relator’s *qui tam* action was transferred to this Court and on February 11, 2011, Relator filed a Second Amended Complaint (“the SAC”). On December 3, 2012, the United States elected to intervene in Relator’s *qui tam* action as to certain claims against Douglas Mittleider, Hyperion Foundation, Inc., AltaCare Corporation and Long Term Care Services, Inc., and on February 28, 2013, the United States filed its Complaint in Intervention against such defendants (“the Lawsuit”). Relator continued to pursue the claims its *qui tam* action against Julie Mittleider, Sentry, HP/Ancillaries, Inc., HP/Management Group, Inc. and Harry McD. Clark. On August 8, 2013, Relator, with the consent of the United States, voluntarily dismissed the claims in its SAC as against Harry McD. Clark. On August 7, 2017, the Court, on motion by HP/Ancillaries, Inc. and HP/Management Group, Inc., dismissed the claims in Relator’s SAC action as against those entities.

2. The Settlement Agreement, *inter alia*, at paragraphs 8 and 25, requires the Parties, upon the receipt of certain payments by certain Defendants to Plaintiffs, including full satisfaction of the compromised amount of Relator’s attorney’s fees and expenses, to file this Joint Stipulation of Dismissal. All such payments have been made and received.

3. In the Settlement Agreement, at paragraph 13, Relator agreed and confirmed that the Settlement Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B).

4. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of the Settlement Agreement (“relator share”), and the United States and Relator each retain all of their rights pursuant to the FCA on this issue.

5. The United States hereby dismisses with prejudice its Complaint in Intervention in this action and respectfully requests that the Court order such dismissal, pursuant to § 3730(b)(1), as being in the best interests of the Parties and in the interests of justice.

6. Relator hereby, with the consent of the United States, dismisses its SAC in this action, with prejudice to Relator and without prejudice to the United States, and respectfully requests that the Court order such dismissal, pursuant to § 3730(b)(1), as being in the best interests of the Parties and in the interests of justice.

7. Defendants consent to the dismissal of the United States' Complaint In Intervention and Relator's SAC, as set forth above.

8. The Parties request that the Court retain jurisdiction for the purposes of:
(a) enforcing the Settlement Agreement and resolving any issues or disputes relating thereto; and
(b) the resolution of any remaining issues relating to Relator share.

A proposed form of Order has been submitted to the Court herewith.

Respectfully submitted,

Dated: November 16, 2017

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of November 2017, I caused a copy of the foregoing to be served to counsel via filing with the Court's ECF system, to counsel of record in this matter.

s/ Lynn Murray

Samuel Lynn Murray